

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

FILED - GR
June 30, 2008 1:56 PM
RONALD C. WESTON, SR., CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY: _____/_____

ADMINISTRATIVE ORDER RE:)
PROPOSED AMENDMENTS TO) No. 08-093
LOCAL CIVIL RULE 83 and)
LOCAL CRIMINAL RULE 57)
_____)

Pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure, and Rule 57 of the Federal Rules of Criminal Procedure, the court hereby gives notice of its consideration of amendments to Local Civil Rule 83 and Local Criminal Rule 57. The proposed amendments, a copy of which is attached, would

- repeal the present Local Civil Rule 83.3(a) ("Courthouse Conduct") and enact in its place proposed Local Rule 83.4, in the form attached;
- renumber the remaining provisions of Local Civil Rule 83.3, with no substantive changes;
- repeal the present Local Criminal Rule 57.3(e) ("Courthouse Conduct") and enact in its place proposed Local Criminal Rule 57.4, in the form attached; and
- renumber the remaining provisions of Local Criminal Rule 57.3, with no substantive changes.

The proposed amendments would govern various aspects of conduct in the courthouses of this district, including soliciting, loitering, and disruptive behavior; use of cameras, recording devices, and wireless communication devices; possession of firearms and other weapons; and use of cellular phones and laptop computers.

The proposed amendments have been reviewed and tentatively approved by the judges of this court, at a regular meeting conducted on June 20, 2008. The text of the proposed rule amendments is available on the court's website or in paper form at the Clerk's Office.

NOTICE IS HEREBY GIVEN to all members of the public of their opportunity to review and comment upon the foregoing proposed amendments. A copy of this order shall be posted in each divisional office and on the court's website. In addition, the Clerk shall send electronic notice to all attorneys registered to use the CM/ECF system. The Clerk shall provide a

copy of the proposed amendment to the Federal Bar Association, West Michigan Chapter, the State Bar of Michigan Committee on United States Courts, and the *Michigan Lawyer's Weekly*.

All comments should be in writing and must be received by the court no later than **August 1, 2008**. Comments should be addressed to:

Ronald C. Weston, Jr., Clerk
United States District Court
399 Ford Federal Building
110 Michigan, N.W.
Grand Rapids, MI 49503

or submitted electronically to ecfhelp@miwd.uscourts.gov. The court will consider all comments before promulgating a final version of the proposed rules.

Dated: _____, 2008

June 30

FOR THE COURT:

A handwritten signature in black ink, appearing to read "Robert Holmes Bell", written over a horizontal line.

Robert Holmes Bell
Chief Judge

***Proposed Local Civil Rule 83.4
and Criminal Rule 57.4***
Conduct in Federal Court Facilities

(a) Security.

- (1) As used in this rule, "federal court facility" includes any facility occupied by the United States District Court or any temporary facility occupied by a District Judge or Magistrate Judge serving in the Western District of Michigan.
- (2) All persons entering a federal court facility in the Western District of Michigan are required to present a valid government issued identification card with photo, pass through a magnetometer, and have all belongings and packages subject to physical and/or x-ray examination by the United States Marshals' Service. Any person who refuses to present a valid form of identification or pass through screening shall be denied entrance.

(b) Soliciting, Loitering, and Disruptive Behavior.

- (1) The solicitation of business relating to bail bonds or to employment as counsel is prohibited.
- (2) Loitering in or about federal court facilities is prohibited.
- (3) Any behavior which impedes or disrupts the orderly conduct of the business of the court is prohibited. Cards, signs, placards, or banners may not be brought into a federal court facility or its environs.

(c) Cameras, Recording Devices and Wireless Communication Devices (Other Than Laptop Computers)

- (1) Except as specifically provided herein, no camera or recording device shall be permitted in a federal court facility. This prohibition shall include any device or contrivance capable of preserving or transmitting a visual image and any device or contrivance capable of recording, transmitting, or preserving any audible communication.
- (2) The taking of photographs in connection with any judicial proceeding and the recording or broadcasting of judicial proceedings by radio, television or other means is prohibited.
 - (A) As used in this rule, "judicial proceeding" includes proceedings before district, bankruptcy or magistrate judges, and sessions of the grand jury.
 - (B) As used in this rule, "in connection with any judicial proceeding" includes all participants in a judicial proceeding while they are in a courtroom or its environs.
- (3) A judicial officer may authorize, by written notice to the United States Marshal, the use of electronic or photographic means for the presentation of evidence or for the perpetuation of the record.

(4) A district judge or magistrate judge may authorize, by written notice to the United States Marshal:

(A) The broadcasting, televising, recording, or photographing of investiture, ceremonial, or naturalization proceedings; and

(B) The radio or television broadcasting, audio or video recording or photographing of court proceedings pursuant to a resolution of the Judicial Conference of the United States.

(5) By written notice to the U.S. Marshals' Service, the General Service Administration Property Manager, or his designee, can authorize an individual or contract group to possess a camera or recording device for the purpose of maintaining or enhancing the facility, to include repair and alterations.

(d) Firearms and Weapons.

(1) It is illegal to possess a firearm or other dangerous weapon in a federal court facility with or without the intent to commit a crime (Title 18, USC 930). Firearms, knives, explosives, and other weapons are prohibited in federal court facilities and subject to confiscation.

(2) Exceptions to this rule include:

(A) Judicial officers, the United States Marshal, deputy marshals, court security officers, and employees of the Federal Protective Service.

(B) Federal law enforcement agencies having offices in a federal court facility are exempt from the provisions regarding the carrying of weapons while entering the building and while going to and from the floor where their offices are located; or

(C) Employees of the United States Probation Office who are authorized by law and agency regulations to carry firearms in the performance of their official duties, may possess firearms in this facility to the extent necessary to transport such firearms by the most direct route available to and from the offices of the Probation Department. In accordance with regulations of the U.S. Probation Department, all firearms shall be secured while present within the offices of the Probation Department. The Chief U.S. Probation Officer will notify the United States Marshals' Service in writing of all officers authorized to carry firearms. Employees of the United States Probation Office are prohibited from carrying firearms into courtrooms.

(D) State, county, and local law enforcement officers who are:

(i) Escorting prisoners to and from court under the direction of the United States Marshals' Service, or

(ii) Assisting the Marshals' Service by supporting or providing additional security, as directed, in and around federal court facilities.

(3) All other federal, state or local law enforcement officers are required to identify themselves and store their weapons in weapons lock boxes maintained by the United States Marshals' Service. For security purposes, officers *may* be required to be screened after securing their weapons.

(4) The handling of firearms as exhibits in trials is governed by an administrative order issued by the court.

(5) An exception to this Rule regarding weapons or firearms may only be made by the Chief Judge or the Judge in whose courtroom the proceedings are occurring.

(e) Cellular Telephones and Laptop Computers

(1) General Policy. Except as provided in (2) and other court orders, cellular telephones and laptop computers, are not permitted in federal court facilities.

(2) Exempted Persons. The following persons are permitted to carry and use cellular telephones and laptop computers, within federal court facilities in the Western District of Michigan:

Note: While in a courtroom, cellular telephones shall be in the “off” position at all times.

Officers of the Court: Attorneys appearing in their official capacity as an officer of the court.

Building Tenants: Employees and visiting employees of the federal court facility.

Parties to Litigation: Parties, other than defendants in criminal cases, who enter a federal court facility accompanied by their attorney and their counsel certifies to security staff that such devices are necessary to facilitate litigation pending before the court.

U.S. Marshals’ Service Personnel: Including Court Security Officers and contract guards.

Other Federal, State, Local Law Enforcement: *When appearing in their official capacity.*

GSA Approved Contractors: By written notice to the U.S. Marshals’ Service, the General Service Administration Property Manager, or his designee can authorize an individual or contract group to possess a cellular telephone, laptop computer, or other wireless communication device for the purpose of maintaining or enhancing the facility, to include repair and alterations.

Jurors: Grand Jury members, Petit Jury Members, and persons appearing as directed pursuant to a jury summons.

Judicial Authority: Upon request to the court, a judicial officer may issue an order granting permission to an individual or group, otherwise not authorized to possess a cell phone or laptop computer. *The U.S. Marshal shall be notified of such order.*

Conditions for Authorized Use of Cellular Telephones: The following conditions shall apply for those individuals authorized to carry a cellular telephone:

(A) The device may not be used and must be turned off except in designated areas of the court facility; and

(B) The device cannot be initiated, "answered," examined or otherwise manipulated while in a courtroom; and

(C) The device may be used for communication only in posted designated areas; and

(D) Designated areas for non-building tenants include:

The Chambers Suites of all Judges

Gerald R. Ford Federal Building & Courthouse-Grand Rapids:

Sub-basement: Elevator lobby and snack bar area

First Floor: Elevator lobby

Second Floor: Jury Members only

Third Floor: Elevator lobby

Fourth Floor: Not allowed

Fifth Floor: Elevator lobby

Sixth Floor: Not allowed

Seventh Floor: Elevator lobby

U.S. Courthouse-Kalamazoo:

West Lobby adjacent to Security Station

U.S. Post Office & Courthouse-Marquette:

To be determined

Charles E. Chamberlain Courthouse-Lansing:

To be determined

Logans Place West-Traverse City:

To be determined

(f) Enforcement. The United States Marshal, his deputies, and court security officers may demand from any individual in possession of a cellular telephone or wireless communication device, to produce identification in aid of enforcement of this rule, and if the identification does not satisfy the officer that the person in possession of the device is authorized in accordance with the terms of this rule, the officer may refuse admittance to this person and/or confiscate the device.

(g) Violations.

(1) Attorney Discipline. An attorney violating this rule may be subject to discipline, including disbarment, in accordance with Local Criminal Rule 57 and/or Local Civil Rule 83.

(3) Confiscation. A violation of this rule, including without limitation, unauthorized possession, use in an unauthorized space, possession of a device in an audible mode, and failing to turn off a device when required, *SHALL* result in immediate confiscation of the device. Any judicial officer may order confiscation of a cellular telephone or wireless communications device. Any United States Marshal or Deputy Marshal or court security officer may also confiscate such a device. ***The U.S. Marshal's Service will develop a procedure for handling and storing confiscated devices.***

(3) Contempt of Court. A violation of this rule may be punished as criminal contempt of court. A violation that disrupts a judicial proceeding may be punished by summary proceedings.

(h) Relief from Confiscation of a Device. An individual whose device has been confiscated may apply in writing not less than seven (7) days after confiscation for its return. The application shall be made to the judicial officer whose proceedings were disturbed by the violation, or, if there is no such judicial officer, to the chief judge. The judicial officer may grant or refuse the request. Confiscated devices that are not returned, either because no request has been made within the time provided or the request for return has been denied, shall be disposed of in a manner directed by the chief judge.

Nothing in this paragraph shall prohibit the judicial officer or his designee to return a device after the conclusion of a court matter if the violation was totally inadvertent.

(i) Consent to Provisions. Any person bringing in a cellular telephone, laptop computer, or other wireless communication device shall be determined to have consented to the provisions of this rule.

06/19/08 - Approved at Judges' Meeting

PLM/ab